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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/004,259 | 11/01/2001 | Toshikazu Takase | 116-011833 | 3750 |

28289 7590 06/05/2006

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EXAMINER

CROSS, LATOYA I

ART UNIT PAPER NUMBER

1743

DATE MAILED: 06/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/004,259 | TAKESE ET AL | |
| | Examiner | Art Unit | |
| | LaToya C. Younger | 1743 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) 9-11, 18-20 and 26-32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 12-17 and 21-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Office Action is in response to Applicants' amendments filed on March 9, 2006. Claims 1-32 are pending. Claims 9-11, 18-20 and 26-32 are withdrawn from consideration as being directed to non-elected subject matter.

Withdrawal of Rejections from Previous Office Action

- The obviousness rejection over Amano et al in view of Brewer is withdrawn in view of Applicants' amendment to the claims to recite the presence of nozzles as the solvent removal means.

Claim Rejections - 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1-8, 12-17, 21-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over US patent 4,835,707 to Amano et al in view of US patent 6,716,320 to Cole.

Amano et al disclose an automatic analysis method and apparatus. The apparatus comprises a sample tube rack (2) for retaining sample tubes. The sample tubes are held in a sample holder (18) and are removed from the holder to various other locations within the system by way of a robot (1). At col. 9, lines 55 - col. 10, line 9, Amano et al teach a dilution dispenser (22), a sampling pipetter (23) and reaction mixture dispensers (25A, 25B, 25C). The sampling pipetter (23) is equivalent to Applicants' claimed sample aspirating/dispensing means. The apparatus also comprises an ultrasonicator, magnetic stirrer (41) and a heater with a temperature controller (4a). As a solvent dispensing means, Amano et al teach solvent adding apparatuses (5, 6, 7) which add solvents of different kinds to the sample tubes (col. 7, lines

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60-67). Amano et al further teaches that analysis of the sample takes place by HPLC (col. 3, lines 53-65).

The entire apparatus is controlled by computer (13).

Amano et al differ from the instant invention in that there is no disclosure of a solvent-removing means.

Cole teaches a means for evaporating liquid samples (3) from a sample container (2). In one embodiment, the reference teaches that a nozzle (17) feeds inert gas directly into the container (2). See abstract and figure 3. The jet of gas passing over the liquid in the container picks up and removes saturated vapor, present above the sample liquid, out of the container (2). It is known in the art that some samples require evaporation and/or drying during the analysis process. Amano et al even suggest means for avoiding the need for evaporating a sample (col. 20, lines 39-40). However, where necessary, it would have been obvious to one of ordinary skill in the art to incorporate the gas-feeding nozzles of Cole into the system of Amano et al to allow the sample to be evaporated and dried. Such would allow for a better quality sample for analysis, leading to more accurate results.

Response to Arguments

3. Applicant's arguments with respect to the pending claims have been considered but are moot in view of the new ground(s) of rejection.

2. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing

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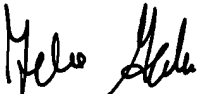
date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LaToya C. Younger whose telephone number is 571-272-1256. The examiner can normally be reached on Monday-Thursday 10:30 a.m. - 8:00 p.m. and on alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill A. Warden can be reached on 571-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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YELENA GAKH
PRIMARY EXAMINER